(8) (7)

BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR (C.G.)

M.A.(C) NO. 283 /2007 Division Bench

APPELLANTS CLAIMANTS

1. Sarita alias Chukli Gandharv aged about 18 years, daughter of Late Ganesh Ram Gandharv, occupation – Housewife.
2. Babli, aged about 14 years, son of Ganesh Gandharv
3. Devita, aged about 12 years, daughter of Late Ganesh Gandharv

Appellants No.2 and 3 are minors, through their natural guardian – Sister Sarita alias Chukli daughter of Late Ganesh Gandharv.

All are resident of village Dindori, P.S. Mungeli, District Bilaspur (C.G.)

P.R. No. 6/5/07 Presented by Shri ... dated ...

VERSUS

RESPONDENTS

1. Kartik Ram, son of Shri Chhotu Ram Satnami, resident of village Salkhan, P.S. Pamgarh, Tah. And Dist Janjgir-Champa (C.G.)
2. Prem Prakash Lat, son of Shri Shankar Lat, resident of Nirala Nagar, Near Bus Stand, Bilaspur (C.G.) (Owner of offending vehicle)
3. The New India Insurance Company, Rajendra Nagar Chowk, Bilaspur (C.G.)

APPEAL UNDER SECTION 173 OF THE MOTOR VEHICLE ACT, 1973 FOR ENHANCEMENT OF AMOUNT OF AWARD

1. Claim made before ...

(18)

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR
DIVISION BENCH

CORAM : **HON'BLE SHRI H.L. DATTU, CJ &**
HON'BLE SHRI V.K. SHRIVASTAVA, J.

MISC. APPEAL (C) NO. 283 OF 2007

APPELLANTS Sarita alias Chukli Gandharv & Others

Versus

RESPONDENTS Kartik Ram & Others

Present : Shri Vimlesh Bajpai, counsel for the appellants.
None for the respondents.

ORAL ORDER
(Passed on 1st March, 2007)

The following oral order of the Court was passed by **Vijay Kumar Shrivastava, J.**

On 8-4-2005 Bhagwati Bai (since deceased) alongwith her relatives namely Sukhnandan and Ramkumar Gandharav while coming to Mungeli by bus bearing registration No.CG-10-A-1630 (*for short "the offending vehicle"*) met with an accident near Village Setganga Khaira, as a result of which the deceased sustained injuries and succumbed to those on the spot. At that time the offending vehicle was driven by respondent No.1 in a rash and negligent manner, respondent No.2 is owner and respondent No.3 is insurer of the offending vehicle. Appellants/claimants, who are the legal representatives of the deceased, filed an application under Section 166 of the Motor Vehicles Act, 1988 (*for short "the Act, 1988"*) against all the respondents. Respondents contested the claim. Second Additional Motor Accident Claims Tribunal, Fast Track Court, Mungeli (*for short "the Tribunal"*) after due enquiry passed the impugned award dated 20-11-2006 in claim case No.52/2005 whereby allowed compensation in favour of the appellants as per the detail given below :

S.No.	Head	Amount
1.	Loss of dependency	1,92,000=00
2.	For funeral expenses	2,000=00
3.	For loss of estate	2,500=00
	TOTAL	**1,96,500=00**

Feeling aggrieved the appellants have filed this appeal under Section 173 of the Act, 1988 for enhancement of the compensation amount.

2) Learned counsel for the appellants contended that the award passed by the Tribunal is not just and reasonable.

3) We have gone through the award. We find that the income of the deceased was not proved by substantial legal evidence. Tribunal very conspicuously appreciated the evidence and thereafter held that appellants failed to prove that deceased was engaged in business of vegetables or was earning Rs.300/- or more daily. Tribunal, however, took the notional daily income of the deceased as Rs.50/- and recorded her annual income Rs.18,000/-. Tribunal reduced 1/3rd towards her own expenses and applying multiplier of 16, recorded compensation towards loss of dependency Rs.1,92,000/-. Tribunal further allowed reasonable amount towards other heads as above. We are of the considered view that finding of facts recorded by the Tribunal are neither perverse nor capricious. The amount awarded by the Tribunal is just and reasonable, therefore, we do not find any material to condemn the findings recorded by the Tribunal and to interfere with the award passed by the Tribunal.

4) In the result, the appeal being devoid of substance deserves to be dismissed and is accordingly dismissed. No costs.

Sd/-
Chief Justice

Sd/-
V.K.Shrivastava
Judge